

Additional Views

H.R. 1837, the “Services Acquisition Reform Act of 2003”

I. Bill Summary

Each year the U.S. government spends well over \$200 billion buying services and goods ranging from sophisticated information technology and management services to grass cutting and window washing, from paper clips to advanced weapon systems. More than half of that \$200 billion, over \$135 billion, is now spent on services--an increase of about 24 percent since 1990--establishing services as the Nation's largest single spending category.

The Services Acquisition Reform Act (SARA) affects how the federal government procures these federal goods and services. The aim of the legislation is to “streamline” the procurement process by remedying the following purported deficiencies: (1) the lack of up-to-date comprehensive training for acquisition professionals, (2) the inability of the current government structure to reflect business-like practices by integrating the acquisition function into the overall agency mission and facilitating cross-agency acquisitions and information sharing, and (3) the lack of effective tools and incentives to encourage the participation of the best commercial firms in the government market.

A similar SARA was introduced in the 107th Congress as H.R. 3832 and referred to the committees on Government Reform and Armed Services. No action was taken on the bill in either committee. Also introduced in the 107th Congress was H.R. 3925, the “Digital Tech Corps Act of 2002,” which allowed for the exchange of mid-level information technology staff between the government and private sector. This bill was reported favorably by the Judiciary Committee and passed the House on a voice vote. The bill was referred to a Senate subcommittee and no action was taken.

In the 108th Congress, the new SARA was reintroduced and referred to the committees on Government Reform, Armed Services, and Judiciary. The Government Reform Committee reported the bill favorably on May 7, 2003. However, key amendments on important acquisition issues offered by Democratic members were rejected during markup. In their dissenting views, the Democrats on the committee concluded, “While we support the goal of streamlining federal procurement laws, we cannot support SARA in its current form. Unfortunately, as reported by the Committee, the bill exposes the taxpayer to new forms of waste, fraud, and abuse in federal contracting.”

II. Policy Concerns

We support the goal of improving the federal procurement process. Toward this end, the legislation creates a chief acquisition officer and establishes a training fund for acquisition personnel. These steps will help promote a professional, well-trained federal acquisition workforce, and we applaud these developments. There are, however, a number of significant problems with the legislation. There are two problematic sections, both of which fall under the jurisdiction of the Judiciary Committee: 1) Section 103 – the government-industry exchange

program for acquisition personnel and 2) Section 215 – procedural requirements for civilian agencies relating to products of federal prison industries.

A. Section 103

This program is troublesome because it could give private contractors undue influence over the federal contracting process. In effect, industry workers would be making government decisions on ensuring that contractors are not overpaid and that the work performed meets federal standards. Turning these functions over to private sector employees is not only irresponsible, but dangerous.

Even if private sector contractors follow conflict of interest laws (which they are subject to in the bill) and do not work on projects involving their private employers, their involvement is still inappropriate. They will still be paid by their private employers and are expected to return to take on “increased acquisition management responsibilities” after the exchange is completed. They will still be making decisions concerning the overall industry they are employed in which will include decisions on competing private companies. Only persons who work for the government or are being paid by the government should be involved in making decisions about how much specific contractors are paid.

There have been many questions raised in recent months about possible ties between current members of the administration and certain private companies that contract with the government. How can the American people be sure that contracting is handled impartially and objectively when the very companies that benefit are also supplying the government decision-makers. The American people will only become more suspicious of this process if the bill in its current form passes.

Furthermore, we are concerned that Section 103 of the bill amounts to little more than a corporate welfare program for companies that have fallen on leaner times as a result of our ongoing economic recession. Rather than layoff workers in order to decrease expenditures, companies will try to temporarily shift their workers to government jobs. The expectation will be that those workers will return to the company in higher-paying jobs when the economy improves. And while these workers can retain their salaries while participating in the exchange program, they may apply for government funding and attempt to save their employers money.

B. Section 215

Because the Judiciary Committee already passed a comprehensive Federal Prison Industries bill, H.R. 1829, we feel that Section 215 is unnecessary. The bill would apply the Department of Defense contract restrictions to the rest of government contracting. Yet these restrictions have already brought about the loss of nearly 2,000 inmate jobs. Moreover, we are the committee responsible for public safety and the safe, orderly and productive operation of our prisons. Research has shown that inmates who are released from prison with practical work skills and work experience have a better chance of securing employment in the private sector. Prison work programs reduce crime and recidivism rates. Section 215 will take needed jobs away from

inmates and have a negative effect on our efforts to fight crime and reduce the prison population.

During the markup, Rep. Scott offered an amendment to strike section 215 of the bill which was defeated by voice vote.

III. Conclusion

In conclusion, we feel that Sections 103 and 215 of the bill should be deleted and hope that amendments accomplishing this will be ruled in order when the bill comes before the whole House for a vote. This will go a long way toward fighting crime, helping our prison population, and assuring the American people that government contracting is conducted in an impartial way – free of the undue influence of the private companies who stand to benefit. An amendment eliminating Section 103 will also remove what we see as little more than a government hand-out to contractors who have fallen on hard times because of the recession. An amendment eliminating Section 215 will ultimately help reduce our growing prison population.

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